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EXAMINER

THOMAS, ALEXANDER S

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT C. HOCHTRITT and ANDREW M. CONGER

Appeal 2008-0759
Application 10/660,694
Technology Center 1700

Decided: January 28, 2008

Before EDWARD C. KIMLIN, CHUNG K. PAK, and
CATHERINE Q. TIMM, *Administrative Patent Judges*.

KIMLIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the final rejection claims 1-20, all the claims pending in the present application. Claim 1 is illustrative:

1. A stack of interfolded absorbent sheet products, comprising a plurality of single ply absorbent sheets each of which is itself folded at least twice about axes that are perpendicular to one another, the absorbent sheets moreover comprising an embossed surface relief of a predetermined pattern or design, wherein each of said absorbent sheets within said stack comprises at least one pair of panels sandwiched between a pair of adjacent panels of another of said absorbent sheets within said stack.

The Examiner relies upon the following references as evidence of obviousness:

Freiburger	5,516,000	May 14, 1996
Heath	6,699,360 B2	Mar. 2, 2004
Lloyd (EP '382)	EP 320,382	Feb. 8, 1989
Pigneul (EP '538)	EP 286,538	Jan. 2, 1992

Appellants' claimed invention is directed to a stack of interfolded absorbent sheet products, comprising a plurality of single ply absorbent sheets having an embossed surface relief pattern or design. The sheets are folded at least twice about axes that are perpendicular to one another, and each of the sheets within the stack comprises at least one pair of panels sandwiched between a pair of adjacent panels of another absorbent sheet.

Appealed claims 1-20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over either EP '382, EP '538 or Freiburger in view of Heath.

With the exception of claims 18-20, Appellants do not set forth a substantive argument that is reasonably specific to any particular claim on appeal. Accordingly, claims 1-17 stand or fall together.

We have thoroughly reviewed each of Appellants' arguments for patentability. However, we are in complete agreement with the Examiner that the claimed subject matter would have been obvious to one of ordinary skill in the art within the meaning in § 103 in view of the applied prior art. Accordingly, we will sustain the Examiner's rejection for essentially those reasons expressed in the Answer.

There is no dispute that each of the EP'382, EP'538 and Freiburger, like Appellants, discloses a stack of interfolded absorbent sheet products comprising a plurality of absorbent sheets each of which is itself folded at least twice about axes that are perpendicular to one another and wherein each of the absorbent sheets within the stack comprises at least one pair of panels sandwiched between a pair of adjacent panels of another absorbent sheet within the stack. As appreciated by the Examiner, the absorbent sheets of the three references are not single ply, nor are they embossed with a relief design. However, Heath, like the three primary references, describes absorbent sheets for use as facial tissue, bathroom tissue and napkins, etc. that comprise a single ply that is imparted with an embossed relief design. As explained by the Examiner, the processed one-sheet ply absorbent sheet of Heath is taught to be an improvement over one-ply facial tissue and napkins that suffer the problems of poor imprintability and softness. Accordingly, we agree with the Examiner that it would have been obvious

for one of ordinary skill in the art to utilize the one-ply absorbent sheet of Heath in making the folded absorbent products of the primary references for the purpose of reducing cost while improving printability and softness. Neither of the primary references nor Heath is restricted to any particular type of absorbent products but provide a general teaching regarding products comprising absorbent sheet material. While Appellants make the argument that Heath is primarily directed to bathroom tissue, Heath clearly discloses that the single-ply embossed sheets can be used for making facial tissue and napkins as well (see col.2, ll. 28 et seq.). Appellants also make the argument that Heath “makes clear the tissue of Heath is of a serpentine (e.g. rolled) configuration” (p. 2 of Reply Br., first para.). However, the term serpentine is not equivalent to the term rolled and it would seem that serpentine is more suggestive of a back and forth folding configuration than a roll.

As for separately argued claims 18-20, which recite that the dispenser comprises a downwardly-directed opening through which the absorbent sheets may be withdrawn one at a time, we find that it would have been a matter of obviousness for one of ordinary skill in the art to orient the dispenser in either an upwardly-directed or downwardly-directed manner for dispensing the sheets. Manifestly, a conventional box of facial tissues which ordinarily dispenses tissues in upward direction may be affixed to the bottom of a substrate in an upside down fashion to dispense the tissues in a downward direction.

As a final point, we note that the Appellants base no argument upon objective evidence of nonobviousness, such as unexpected results, which would serve to rebut the prima facie case of obviousness established by the Examiner.

CONCLUSION

In conclusion, based on the foregoing and the reasons well stated by the Examiner, the Examiner's decision rejecting the appealed claims is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

tc

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